

### **REMARKS/ARGUMENTS**

Claims 54-55 and 57-59 are pending in this application and are allowed. The Office Action raises certain issues with regard to the Amendment and Sequence Listing filed on July 15, 2005, which are addressed below.

Re. 3 The amendment filed on July 15, 2005 has been objected to because it allegedly introduces new matter into the disclosure. In particular, the Examiner has found that corrected Figure 5, containing additional N-terminal nucleotides relative to Figure 5 filed with the present application, and the new Sequence Listing including SEQ ID NO:11 corresponding to the sequence shown in corrected Figure 5, represent new matter.

The Examiner's finding of new matter has likely resulted from Applicants' erroneous reference to U.S. Provisional Patent Application Serial No. 60/109,304 in their prior response, stating that this provisional application was incorporated by reference into the present application and contained correct Figure 5. Correct Figure 5, including the entire sequence of SEQ ID NO:11, was included as Figure 2 in U.S. Provisional Patent Application Serial No. 60/066,364 filed on November 21, 1997, the entire disclosure of which was indeed incorporated by reference into the present application at the time of filing. Applicants regret the error in citing the provisional application number. In order to complete the record, accompanying the present response is a copy of Figure 2 from U.S. Provisional Patent Application Serial No. 60/066,364. Also enclosed is a Declaration on Incorporation by Reference, stating that corrected Figure 5 shows the same sequence present in Figure 2 of U.S. Provisional Patent Application Serial No. 60/066,364, which is incorporated by reference in its entirety in the above-captioned application. Since the amendment filed on July 15, 2005 did not add new matter, it has been properly entered, and no subject matter need to be canceled in response to the pending Office Action.

Re. 4 The specification was objected to because the brief figure description of Figure 5 shows the nucleotide sequence of SEQ ID NO:11, which does not correspond to the nucleotide sequence of the native sequence DNA40628 as originally disclosed. As discussed above, the nucleotide sequence of SEQ ID NO: 11 was part of U.S. Provisional Patent Application Serial No. 60/066,364, the entire disclosure of which was incorporated by reference into the present

application at the time of its filing. Accordingly, the reference to SEQ ID NO:11 in the specification is proper and should not raise any issues of new matter introduction.

Re. 5 Applicants were requested to correct certain errors in the Sequence Listing submitted with their prior response. The substitute Sequence Listing submitted with the present response is believed to address all objections raised in the Error Report and should, therefore, be entered.

Since all claims are allowed, an early issuance of a Notice of Allowance is respectfully solicited.

Although no fees are believed to be due at this time, please charge any fees, or credit overpayment to Deposit Account No. 08-1641 (Attorney Docket No. 39780-1216 R1C1D5). Please direct any calls in connection with this application to the undersigned at the number provided below.

Respectfully submitted,

Date: November 3, 2005

By: \_\_\_\_\_

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